

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALEX ORTIZ,

**19cv24693**

Plaintiff,

CIVIL RIGHTS

COMPLAINT

No.: \_\_\_\_\_

-against-

**Jury Trial  
Demanded**

RECEIVED  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
MAR 20 2019  
10:10 AM

ANTHONY J. ANNUCCI, Acting Commissioner of NYS DOCCS;  
PRISCILLA LEDBETTER, Director of Temporary Release; M. VICK,  
Temporary Release Reviewer; LEROY FIELDS, Superintendent of Fish-  
kill Correctional Facility; LAURA CAMPBELL, Temporary Release  
Committee Chairperson; MR. GLOVER, Temporary Release Committee  
Member; MS. BLACKKE, Temporary Release Committee Member, the in-  
dividual defendant(s) sued in their individual and official capacities,

Defendants.

**PRELIMINARY STATEMENT**

1. This is a civil rights action in which Plaintiff seeks relief for the violation of Plaintiff's rights secured by Title 42 U.S.C. § 1983, the Fourteenth Amendment of the United States Constitution, and the laws of the State of New York. Plaintiff's claims arise from an incident that occurred on or about May 2, 2017. During and after this incident, members of the New York State Department of Corrections and Community Supervision ("DOCCS") subjected

Plaintiff to, among other things, deprivation of liberty without due process, deliberate indifference, humiliation, failure to intervene, failure to take corrective action, reckless and callous disregard to federally protected rights, negligence, negligent hiring, supervision, training, retention and instruction of employees, and mental and emotional distress. Plaintiff is suing all defendants in their official and individual capacities, seeking compensatory and punitive damages, and for such other and further relief as the Court may deem just and proper.

#### **JURISDICTION AND VENUE**

2. This action is brought pursuant to Title 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution. Jurisdiction is conferred upon this Court by the aforesaid statutes and Title 28 U.S.C. § 1331 and § 1343.

3. Venue is proper here pursuant to Title 28 U.S.C. § 1391 because the events given rise to this cause of action occurred in Albany and Dutchess County in the State of New York which are subject to personal jurisdiction in the Southern District of New York.

#### **PARTIES**

4. Plaintiff ALEX ORTIZ is a resident of the State of New York in New York County at

107 West 104<sup>th</sup> Street, Apt. 3A, New York, New York 10025.

5. At all relevant times alleged herein defendant ANTHONY J. ANNUCCI was employed at DOCCS as the Acting Commissioner and violated Plaintiff's rights as described herein. His office is located at 1220 Washington Avenue, Building 2, Albany, New York 12226. He is being sued in his official and individual capacity.

6. At all relevant times alleged herein defendant PRISCILLA LEDBETTER was employed at DOCCS as the Director of Temporary Release Programs and she violated Plaintiff's rights as described herein. Her office is located at 1220 Washington Avenue, Building 2, Albany, New York 12226. She is being sued in her official and individual capacity.

7. At all relevant times alleged herein defendant M. VICK was employed at DOCCS as the Temporary Release Reviewer and he violated Plaintiff's rights as described herein. His office is located at 1220 Washington Avenue, Building 2, Albany, New York 12226. He is being sued in official and individual capacity.

8. At all relevant times alleged herein defendant LEROY FIELDS was employed at DOCCS as the Superintendent of Fishkill Correctional Facility and he violated Plaintiff's rights as des-

cribed herein. His office is located at 18 Strack Drive, Beacon, New York 12508. He is being sued in his official and individual capacity.

9. At all relevant times alleged herein defendant ~~LAURA CAMPBELL~~ was employed at DOCCS as the Temporary Release Committee Chairperson at Fishkill Correctional Facility and she violated Plaintiff's rights as described herein. Her office is located at 18 Strack Drive, Beacon, New York 12508. She is being sued in her official and individual capacity.

10. At all relevant times alleged herein defendant MR. GLOVER was employed at DOCCS as the Temporary Release Committee Member at Fishkill Correctional Facility and he violated Plaintiff's rights as described herein. His office is located at 18 Strack Drive, Beacon, New York 12508. He is being sued in his official and individual capacity.

11. At all relevant times alleged herein defendant MS. BLACKKE was employed at DOCCS as the Temporary Release Committee Member at Fishkill Correctional Facility and she violated Plaintiff's rights as described herein. Her office is located at 18 Strack Drive, Beacon, New York 12508. She is being sued in his official and individual capacity.

#### **STATEMENT OF FACTS**

12. On April 2<sup>nd</sup>, 2015, ALEX ORTIZ ("Plaintiff") was convicted in a Supreme Court of

New York County of Criminal Sale of Controlled Substance in the Second Degree under Indictment 5320/13, and Criminal Sale of Substance in the Third Degree under Indictment 5135/13, and sentenced to concurrent terms of six years imprisonment with five years post-release supervision and three years imprisonment with three years post-release supervision.

13. On or about November, in the year 2016, Plaintiff was approved and began participating in the DOCCS Temporary Release Program at Lincoln Correctional Facility in New York County.

14. Shortly thereafter, Plaintiff obtained employment at Dutchess Express and was hired as a Delivery Associate earning \$11.00 an hour with the inclusion of tips.

15. Along with being gainfully employed, Plaintiff earned the opportunity to spend overnights with his family.

16. On March 31, 2017, Plaintiff left Lincoln Correctional Facility to enjoy a furlough.

17. Plaintiff was required to report back to the facility on April 2, 2017.

18. Plaintiff failed to report back to facility on the designated date and time.

19. On April 7<sup>th</sup>, 2017, Plaintiff was apprehended by DOCCS agents from the Office of Spe-

cial Investigations at his place of employment.

20. Plaintiff was transported to Sing Sing Correctional Facility and placed in Administrative Segregation.

21. On April 13, 2017 Plaintiff was issued a Misbehavior Report and charged with Abscondence (Rule 108.15) and Temporary Release Violation (Rule 108.14).

22. On April 19, 2017 Plaintiff attended the "Superintendent's Hearing" to answer for said charges.

23. Plaintiff pled guilty with an explanation.

24. For violating the rules Plaintiff received as a penalty thirty days Keeplock Confinement, thirty days loss of privileges, and a referral to alcohol and substance abuse treatment.

25. On April 20, 2017 Plaintiff was transferred to Fishkill Correctional Facility.

26. Plaintiff's disciplinary sanctions were modified to a 29 day Suspended Keeplock Confinement, while the thirty day loss of privileges remained the same.

27. On April 21, 2017 Plaintiff was referred to the Temporary Release Committee ("TRC") for the sole purpose of determining whether Plaintiff should continue participating in the

Temporary Release Program or his status be revoked.

28. On May 2, 2017 Plaintiff attended the “Removal Proceeding/TRC Hearing” in accordance with Title 7 N.Y.C.R.R. § 1904.2(h).

29. The hearing body consisted of the following defendants: LAURA CAMPBELL, MR. GLOVER and MS. BLACKE.

30. The hearing was recorded on a cassette tape.

31. At the hearing, along with admitting to violating the disciplinary rules, Plaintiff made an attempt to argue against the revocation of his temporary release status, to show that he was still a good risk, and to present mitigating information that would demonstrate that although the violation occurred, it did not warrant revocation.

32. Plaintiff made a request to call witnesses and present evidence.

33. Defendant LAURA CAMPBELL rejected Plaintiff’s request to call witnesses stating: “this is not a disciplinary hearing”, “this is a hearing as if you are originally applying to temporary release”, “it does not matter if there are witnesses”, that witness testimony “has absolutely nothing to do with whether [Plaintiff] should stay in work release”, “this is not a hearing to the effect where we have witnesses”, “we do not ask for witnesses at this point to ascertain whether

[Plaintiff] is a good candidate”, and suggested that the witness write Plaintiff “a letter”.

34. Defendants LAURA CAMPBELL, MR. GLOVER, and MS. BLACKKE denied Plaintiff the right to call witnesses and present evidence.

35. Plaintiff informed defendants LAURA CAMPBELL, MS. BLACKKE, and MR. GLOVER that he had read the regulations for the revocation hearing which stated Plaintiff had the right to call witnesses, present mitigating evidence, argue against revocation, that the hearing body was required to consider this information prior to making a final determination, and requested that the hearing body make an effort to contact his witness and obtain statements from him.

36. Defendant LAURA CAMPBELL rejected Plaintiff’s requests stating Plaintiff admitted to violating the rules of the program and that “all the witnesses in the world would not change that”.

37. Plaintiff informed defendants LAURA CAMPBELL, MS. BLACKKE, and MR. GLOVER that the hearing body was required to consider other factors besides the violation before making their determination.

38. Defendant LAURA CAMPBELL replied, “once you abscond from temporary release, it’s a done deal. We can’t take that chance again”.



39. Defendants MR. GLOVER and MS. BLACKKE agreed with defendant LAURA CAMPBELL and they all rejected Plaintiff's attempts to call witnesses and present evidence.

40. At the hearing's closing, defendants LAURA CAMPBELL, MS. BLACKKE, and MR. GLOVER without honoring Plaintiff's due process rights to call witnesses and present evidence, nor taking into consideration all relevant facts, nor making any effort to contact Plaintiff's witness or call for an adjournment to see if further evidence would be produced prior to making a final decision, made the immediate determination to recommend Plaintiff's removal from the temporary release program.

41. The hearing body forwarded the hearing tape and their recommendation to defendant LEROY FIELDS for a final determination.

42. Defendant LEROY FIELDS listened to the hearing tape and became aware of the constitutional violations that occurred at Plaintiff's revocation hearing.

43. On May 9<sup>th</sup>, 2017, defendant LEROY FIELDS agreed with the actions taken by defendants LAURA CAMPBELL, MS BLACKKE, and MR. GLOVER, accepted their recommendation and officially revoked Plaintiff's temporary release status.

44. Plaintiff received the statement and reasons relied upon for the revocation of his temporary release status (See Exhibit A).

45. Plaintiff sent an Administrative Appeal to defendant PRISCILLA LEDBETTER citing the numerous violations that occurred at the revocation hearing, and requesting that defendant PRISCILLA LEDBETTER remedy the wrong by either ordering a new hearing or reinstating Plaintiff back to the temporary release program (See Exhibit B).

46. Defendant PRISCILLA LEDBETTER received Plaintiff's Administrative Appeal, listened to the hearing tape, and became aware of the constitutional violations that occurred at Plaintiff's revocation hearing.

47. On or about June, in the year 2017, Plaintiff was transferred to Riverview Correctional Facility.

48. On August 14, 2017, Plaintiff sent a letter to defendant PRISCILLA LEDBETTER requesting an update on the status of his appeal (See Exhibit C).

49. Defendant PRISCILLA LEDBETTER received Plaintiff's August 14, 2017 letter, read it, and became aware that the constitutional wrongs endured by Plaintiff remained without remedy.

50. Plaintiff wrote his assigned counselor requesting an update on the status of his Administrative Appeal.

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51. Defendant PRISCILLA LEDBETTER gave defendant M. VICK Plaintiff's Administrative Appeal and the hearing tape to review, and directed defendant M. VICK to make the final determination.

52. Defendant M. VICK reviewed Plaintiff's Administrative Appeal, listened to hearing tape and became aware of the constitutional violations that occurred at Plaintiff's revocation hearing.

53. On August 16, 2017, Plaintiff received a response from his assigned counselor stating that the revocation of his temporary release status was affirmed as of June 22, 2017, and also provided Plaintiff with a copy of the decision approved by defendant PRISCILLA LEDBETTER and submitted by defendant M. VICK which states:

THE FISHKILL CORRECTIONAL FACILITY TRC AND THE SUPERINTENDENT CON-  
CURRED WITH YOUR REMOVAL FOR TIER 3 CONVICTION FOR TEMPORARY RE-  
LEASE VIOLATION AND ABSCONDENCE. SUCH BEHAVIOR INDICATES AN INA-  
BILITY TO CONFORM WITH THE TEMPORARY RELEASE CONTRACT. REMOVAL  
IS WARRANTED. **IN RESPONSE TO YOUR APPEAL, IT IS NOTED THAT YOU  
ADMIT TO ABSCONDING AND THAT YOUR REQUEST FOR AN ORC WAS NOT  
AS A WITNESS TO ABSCOND INCIDENT** (See Exhibit D).

54. On September 7, 2017, Plaintiff wrote defendant ANTHONY J. ANNUCCI informing

him of the constitutional violations that occurred at the May 2, 2017, revocation hearing and the resulting dispositions by his subordinates upholding those violations.

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55. Plaintiff requested that defendant ANTHONY J. ANNUCCI to intervene and correct the errors committed by his subordinates.

56. Plaintiff sent the September 7, 2017 letter via certified mail to defendant ANTHONY J. ANNUCCI.

57. On September 13, 2017, the September 7<sup>th</sup>, 2017 certified letter was received by defendant ANTHONY J. ANNUCCI (See Exhibit E).

58. Defendant ANTHONY J. ANNUCCI received and read Plaintiff's September 7<sup>th</sup>, 2017 letter and became aware of the constitutional violations committed by his subordinates as a result of the May 2<sup>nd</sup>, 2017 revocation hearing.

59. Defendant ANTHONY J. ANNUCCI did not respond to Plaintiff's September 7<sup>th</sup>, 2017 letter, nor did he rectify the wrong Plaintiff continued to endure, and allowed Plaintiff to continued to be deprived of his liberty interests without due process.

60. On June 7, 2018, Plaintiff wrote defendants ANTHONY J. ANNUCCI and PRISCILLA

LEDBETTER, informing them that no remedy had been provided to address the wrongful deprivation of Plaintiff's liberty interest in continued participation temporary release, as a result of the arbitrary and unlawful actions committed by defendants LAURA CAMPBELL, MS. BLACKE, MR. GLOVER, LEROY FIELDS, and M. VICK, in connection to the May 2<sup>nd</sup>, 2017 revocation hearing (See Exhibit F).

61. Upon information and belief, defendants ANTHONY J. ANNUCCI and PRISCILLA LEDBETTER, received and read Plaintiff's June 7<sup>th</sup>, 2018 letter and became aware that Plaintiff continued to suffer behind the constitutional wrongs committed by their subordinates, and that the matter remained without remedy.

62. On June 25, 2018, Plaintiff wrote and sent a letter via certified mail to defendant PRISCILLA LEDBETTER requesting reconsideration and review of the revocation of his temporary release status.

63. On June 28, 2018, defendant PRISCILLA LEDBETTER received and read Plaintiff's June 25<sup>th</sup>, 2018 letter, and became aware that Plaintiff continued to suffer behind the constitutional violations committed by her subordinates and that no remedy had been afforded to Plaintiff (See Exhibit G).

64. Defendant PRISCILLA LEDBETTER did not respond to Plaintiff's June 25<sup>th</sup>, 2018 letter, failed to remedy the wrong, and allowed Plaintiff to be deprived of his liberty interest without due process.

65. On March 13<sup>th</sup>, 2019, Plaintiff was released from custody to commence his period of post-release supervision.

66. Defendants ANTHONY J. ANNUCCI and PRISCILLA LEDBETTER after being aware that constitutional violations had occurred, and that Plaintiff was harmed behind those violations, took no corrective action while Plaintiff was in custody, permitting Plaintiff to be deprived of his liberty interest without due process and allowing the infliction of unconstitutional injury to remain undisturbed for twenty-two months.

67. On March 20<sup>th</sup>, 2019, Plaintiff filed the instant action.

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68. Defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, and LEROY FIELDS have been aware (from previous lawsuits, complaints and grievances) that many DOCCS officials are insufficiently trained in the proper way to conduct due process revocation

hearings, how to interact with inmates, and how not to act with deliberate indifference.

69. Defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY

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FIELDS are further aware that such improper conduct has often resulted in the deprivation of civil rights.

70. Despite such notice, defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, and LEROY FIELDS have failed to take corrective action.

71. This failure caused the defendants in the present case to violate Plaintiff's constitutional rights.

72. In addition, defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY FIELDS were aware prior to the incident, that defendants LAURA CAMPBELL, M. VICK, MR. GLOVER and MS. BLACKKE lacked the objectivity, temperament, maturity, discretion and disposition to be employed as New York State prison officials.

73. Despite such notice, defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY FIELDS have retained defendants M. VICK, LAURA CAMPBELL, MS. BLACKKE and MR. GLOVER, and failed to adequately train and supervise them.

74. At all relevant times, defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY FIELDS, through DOCCS, and its agents, servants and/or employees, negligently, carelessly and recklessly trained defendants LAURA CAMPBELL, MR. GLOVER, MS.

BLACKKE and M. VICK for their positions as New York State prison officials.

75. At all relevant times, defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY FIELDS, through DOCCS, and its agents, servants and/or employees, negligently, recklessly and carelessly, supervised, controlled, managed, maintained and inspected the activities of defendants LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M. VICK.

76. At all relevant times, defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY FIELDS, through DOCCS, and its agents, servants and/or employees, caused, permitted and allowed defendants LAURA CAMPBELL, MR. GLOVER, MS. BLACKKE and M. VICK to act in an illegal, unprofessional, and/or deliberate manner in carrying out their official duties and/or responsibilities.

77. At all relevant times, defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY FIELDS, through DOCCS, and its agents, servants and/or employees, negligently, carelessly and recklessly retained in their employ defendants LAURA CAMPBELL, MR. GLO-



VER, MS. BLACKKE and M. VICK, who were clearly unfit for their positions, who acted in an illegal, unprofessional, and/or deliberate manner in carrying out their official duties and/or responsibilities.

78. That the occurrence(s) and injuries sustained by Plaintiff, were caused by, and as a result of, the negligent, malicious, reckless, and/or intentional conduct of defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY FIELDS, through DOCCS, and its agents, servants and/or employees, as set forth above, specifically, the reckless manner in which said defendants hired, trained, supervised, controlled, managed, maintained, inspected and retained defendants LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M. VICK.

79. Defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M. VICK acted in concert in committing the above-described illegal acts toward Plaintiff.

80. Defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M. VICK acted under the pretense and color of state law within the scope of their employment.

81. The above described acts committed defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M. VICK were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers, and said defendants acted willfully, knowingly and with specific intent to deprive Plaintiff of his constitutional rights.

82. As a direct and proximate cause of defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M. VICK actions, Plaintiff experienced personal injuries, pain and suffering, fear, psychological anxiety, depression, emotional distress, loss of liberty, mental anguish, humiliation, embarrassment and financial loss.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

83. Plaintiff filed an administrative appeal concerning the denial of due process. Plaintiff completed the administrative appeal process.

#### **FIRST CLAIM**

#### **(FAILURE TO PROVIDE DUE PROCESS HEARING)**

84. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set

forth at length herein.

85. As his First Cause of Action, Plaintiff states of defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M.VICK violated Plaintiff's constitutional rights under the Fourteenth Amendment of the United States Constitution, in that they failed to provide Plaintiff with the due process he was entitled prior to revoking his liberty interest in continued participation in the temporary release program.

**SECOND CLAIM**

**(PROCEDURAL DUE PROCESS VIOLATION/DENIAL OF  
WITNESSES AND EVIDENCE)**

86. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set forth at length herein.

87. As his Second Cause of Action, Plaintiff states of defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M.VICK violated Plaintiff's constitutional rights under the Fourteenth Amendment of the United States Constitution by not providing Plaintiff with a meaningful opportunity

to be heard before revoking his liberty interest in continued participation in the temporary release program, in specifically denying Plaintiff's right to call witnesses, present evidence and mitigating information.

**THIRD CLAIM**

**(DUE PROCESS VIOLATION/ABSENCE OF IMPARTIAL HEARING OFFICERS)**

88. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set forth at length herein.

89. As his Third Cause of Action, Plaintiff states of defendants LAURA CAMPBELL, MS. BLACKKE and MR.GLOVER violated Plaintiff's constitutional rights under the Fourteenth Amendment of the United States Constitution in failing to be neutrally detached impartial hearing officers.

90. After defendant LAURA CAMPBELL stated "all the witnesses in the world" would have no bearing on the matter, and "once you abscond, it's a done deal, we can't take that chance again", the hearing became infected with bias and the matter prejudged prior to the hearing's completion.

91. Defendants LAURA CAMPBELL, MR. GLOVER and MS. BLACKKE were so bias that

the atmosphere they created made it impossible for Plaintiff to prevail regardless of any mitigating evidence or “all the witnesses in the world” being presented.

92. As a result of the improper bias and prejudgment displayed by defendants LAURA CAMPBELL, MR. GLOVER and MS. BLACKKE, Plaintiff’s due process right to have a neutral and detached hearing body was violated.

**FOURTH CLAIM**

**(DUE PROCES VIOLATION/FAILURE TO TAKE CORRECTIVE ACTION)**

93. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set forth at length herein.

94. As his Fourth Cause of Action, Plaintiff states defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS and M.VICK violated Plaintiff’s constitutional rights under the Fourteenth Amendment of the United States Constitution in that after learning and becoming aware of Plaintiff’s constitutional rights being violated by defendants LAURA CAMPBELL, MR. GLOVER and MS. BLACKKE, and that Plaintiff had been removed from the temporary release program without due process, they took no corrective action to restore Plain-

tiff back to the temporary release program, nor provided Plaintiff the due process he was entitled to.

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**FIFTH CLAIM**

**(FAILURE TO INTERVENE)**

95. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set forth at length herein.

96. As his Fifth Cause of Action, Plaintiff states defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M.VICK had a reasonable opportunity to prevent the violations of Plaintiff's constitutional rights, but they failed to intervene. Accordingly, all said defendants are liable to Plaintiff for failing to intervene to prevent the violations of Plaintiff's constitutional rights.

**SIXTH CLAIM**

**(NEGLIGENT SUPERVISION, HIRING, MONITORING, TRAINING AND  
RETENTION OF UNFIT EMPLOYEES)**

97. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set forth at length herein.

98. As his Sixth Cause of Action, Plaintiff states of defendants ANTHONY J. ANNUCCI,

PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKE, MR.

GLOVER and M.VICK are liable to Plaintiff because the occurrence and injuries sustained by

by Plaintiff were cause by, and as a result of, the reckless, malicious, negligent, and/or

intentional conduct of said defendants, through DOCCS, and its agents, servants, and/or emplo-

yees, as set forth above, specifically, the reckless and negligent manner in which said de-

fendants hired, trained, supervised, controlled, managed, maintained, inspected and retained de-

fendants LAURA CAMPBELL, MS. BLACKE, MR. GLOVER, M. VICK and their subordi-

nate prison officials.

99. Plaintiff states defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER and LEROY FIELDS violated Plaintiff's rights under the Fourteenth Amendment of the United States Constitution in failing to adequately train, supervise, monitor and manage defendants LAURA CAMPBELL, MS. BLACKE, MR. GLOVER, M. VICK and allowed them to remove Plaintiff from the temporary release program without affording him due process he was entitled to.

**SEVENTH CLAIM**

**(42 U.S.C. § 1983 CONSPIRACY)**

100. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set forth at length herein.

101. As his Seventh Cause of Action, Plaintiff states of defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M.VICK are liable to Plaintiff because they agreed to act in concert with eachother to violate Plaintiff's constitutional rights and inflict unconstitutional injuries, and committed acts done in the furtherance of that goal causing damage to Plaintiff.

**EIGHTH CLAIM**

**(INTENTIONAL AND NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS)**

102. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set forth at length herein.

103. As his Eighth Cause of Action, Plaintiff states by virtue of the occurrence, defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M.VICK, individually, and/or by their agents,



servants, and/or employees, negligently and/or intentionally inflicted emotional harm upon Plaintiff.

104. Defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M.VICK's actions and/or failure to act, were extreme and outrageous, and caused Plaintiff severe emotional distress.

**NINTH CLAIM**

**(SUBSTANTIVE DUE PROCESS VIOLATION)**

105. Plaintiff repeats and realleges all the foregoing paragraphs as if the same were fully set forth at length herein.

106. As his Ninth Cause of Action, Plaintiff states that the manner in which defendants ANTHONY J. ANNUCCI, PRISCILLA LEDBETTER, LEROY FIELDS, LAURA CAMPBELL, MS. BLACKKE, MR. GLOVER and M.VICK revoked Plaintiff's temporary release status and deprived Plaintiff of his liberty interest without honoring his due process rights, was done with deliberate indifference, was arbitrary, impermissible, malicious, in abuse of their powers and authority, and as a result, said defendants have violated Plaintiff's rights under the substantive component of the Due Process Clause under the Fourteenth Amendment of the Uni-

ted States Constitution.

**WHEREFORE, Plaintiff demands a jury trial and the following relief jointly and/or**

**severally against the Defendants:**

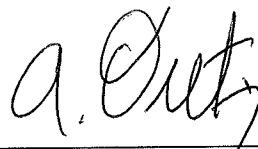
- a. Compensatory damages in an amount to be determined by a jury;**
- b. Punitive damages in an amount to be determined by a jury;**
- c. Damages for mental and emotional distress in an amount to be determined by a**

**jury;**

- d. Assignment of counsel to prosecute this action against the Defendants and allow**
- counsel to collect costs/attorney fees pursuant to Title 42 U.S.C. § 1988; and**

- e. Such other and further relief as the this Court may deem just and proper, including**
- injunctive and declaratory relief.**

**Dated:** March 18, 2019.  
New York, New York



**Alex Ortiz, Plaintiff Pro Se**  
**107 West 104<sup>th</sup> Street, #3A**  
**New York, NY 10025**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ALEX ORTIZ,

Plaintiff,

VERIFICATION

No.: \_\_\_\_\_

-against-

ANTHONY J. ANNUCCI, Acting Commissioner of NYS DOCCS;  
PRISCILLA LEDBETTER, Director of Temporary Release; M. VICK,  
Temporary Release Reviewer; LEROY FIELDS, Superintendent of Fish-  
Kill Correctional Facility; LAURA CAMPBELL, Temporary Release  
Committee Chairperson; MR. GLOVER, Temporary Release Committee  
Member; MS. BLACKKE, Temporary Release Committee Member, the in-  
dividual defendant(s) sued in their individual and official capacities,  
Defendants.

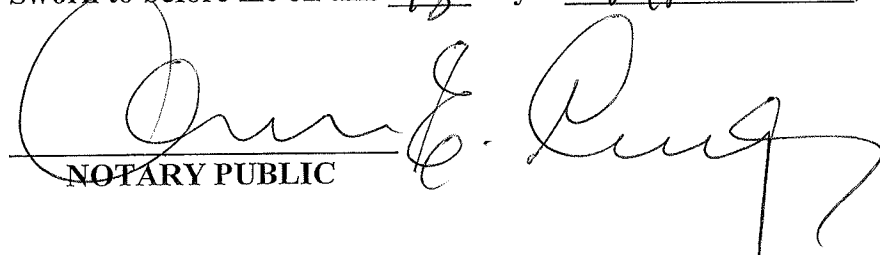
-----X  
State of New York    )  
                                  )ss.:  
County of New York)

ALEX ORTIZ, being duly sworn, deposes and states:

1. I am the Plaintiff in the within entitled action.
2. I have read the foregoing complaint and know the contents of it.
3. The complaint is true to my own knowledge, except as to matters in it stated to be alleged  
on information and belief and as to those matters I believe it to be true.

  
\_\_\_\_\_  
SIGNATURE

Sworn to before me on this 18 day of MARCH, 2019.

  
\_\_\_\_\_  
NOTARY PUBLIC

OMAR E. CAMPOS  
Notary Public, State of New York  
No. 01CA6186994  
Qualified in New York County  
Commission Expires May 12, 2020

**Exhibit A**

CONTINUOUS TEMPORARY RELEASE PROGRAM  
TRC REVIEW FORM

NY

FOR: ORTIZ, ALEX  
INMATE NAME

15R0879 08107458P MB-11-110  
DIN NYSID LOCATION

REVIEW TYPE: ABSCONDENCE REVIEW NUMBER: 20170000424 REFER DATE: 04/21/17  
REVIEW STATUS: \*\*\* PENDING SUPT FROM TRC \*\*\*  
REFERRED TO THE TRC BY: V. GALLO, ORC FOR THE FOLLOWING REASONS:  
< ON 4/02/17 INMATE FAILED TO REPORT TO LINCOLN CF WORK RELEASE AS SCHEDULED. >  
< HE WAS INVOLUNTARILY RETURNED TO NYSDOCCS ON 4/07/17. FOUND GUILTY OF 108.1 >  
< 4 TEMP REL VIOL, AND 108.15 ABSC AT T3 HEARING COMPLETED ON 4/19/17. RECEIVE >  
< D 1D KL TO 4/20/17, 29D KL SUSPD TO 7/19/17 & 30D LOSS OF PRIV. TO 7/19/17. >

HEARING SCHEDULED - TIME: 1400 DATE: 05/02/17 LOCATION: BUILDING 13

INMATE WAIVED 24 HOUR NOTICE: YES  
INMATE WAIVED APPEARANCE : NO  
INMATE PRESENT : YES

EVALUATION:

< INMATE FAILED TO COMPLY W/TEMP RELEASE RULES OF REGULATION. >

TRC RECOMMENDATION: REMOVED DISCIPLINARY REASON  
< INMATE ABSCONDED FROM TEMPORARY RELEASE PROGRAM AT LINCOLN CF >  
< ON 4/2/17 WHEN HE FAILED TO RETURN AT HIS SCHEDULED TIME. >  
< >  
< >

TRC CHAIRPERSON: SORC CAMPBELL TRC MEMBER: CCCA GLOVER  
TRC MEMBER: ORC BLACKIE

SUPERINTENDENT DECISION:

< I concur >  
< >  
< >  
< >

SUPERINTENDENT ELECTRONIC APPROVAL: *ADSP*

DATE 5/9/17

INMATE SIGNATURE *A. Ortiz*

DATE 5/9/17

WITNESS SIGNATURE *V. M. [Signature]*

DATE 5/9/17

**Exhibit B**

## NEW YORK STATE - DEPARTMENT OF CORRECTIONAL SERVICES

## APPEAL FORM TO DIRECTOR OF TEMPORARY RELEASE

## \*REMOVAL FROM CONTINUOUS TEMPORARY RELEASE PROGRAMS

I, Alex Ortiz 15R0879 of Fish Kill Correctional Facility  
 (Inmate Name and Number)

wish to appeal the Removal from Continuous Temporary Release Programs completed on 5-9-17  
 (Date)

## THE SPECIFIC GROUNDS FOR MY APPEAL ARE AS FOLLOWS:

The TRC's Recommendation and the Superintendent's Decision were made in violation of due process law. At the Removal Proceeding/TRC Hearing <sup>on</sup> ~~at~~ 5/2/17 the following violations occurred:

1. I was not Fully informed of my rights;
2. I was not informed I could request an assistant to help me prepare and gather evidence;
3. When I made the request to call a witness the TRC stated I should have my witnesses "write them a letter";
4. No efforts were made by the TRC to contact my witnesses;
5. My request to call a witness was rejected;
6. Because I was not afforded with a full hearing that comports with due process, the TRC's decision was only based on the outcome of my disciplinary hearing and <sup>at</sup> no given point was my entire adjustment, conduct and behavior during the 6 months I was in work-release considered;
7. The decision was arbitrary and capricious and made without regard to all the facts; and
8. The statement by the TRC to have my witnesses "write a letter" was completely prejudicial not just because the regulations do not provide for it, but also because the decision to have me removed was made six days after the TRC suggested I obtain written responses from my witnesses. This can only suggest, considering the timeliness with mail correspondence, the letters were never to be considered.

A. Ortiz  
 (Inmate's Signature)

5/9/17  
 (Date)

\* I am requesting either a new hearing, an opportunity to be reinstated in the "Release Program" or be fully reinstated to Work-Release.

\*Appeals must be submitted within 30 days of receipt of the disposition for removal from temporary release.

Exhibit C



August 14, 2017

Alex Ortiz (15R0879)  
Riverview Correctional Facility  
PO Box 247  
Ogdensburg, NY 13669

To: Priscilla Ledbetter, Director of TRP  
NYS DOCCS--The Harriman State Campus  
1220 Washington Avenue, Bldg. 2  
Albany, NY 12226

Re: Status of Appeal of Removal From Work Release

Dear Ms. Ledbetter,

Please accept this letter as a direct request for information. I am making an inquiry as to the status of my appeal from removal from work release on May 9, 2017 by the TRC and Superintendent at Fishkill Correctional Facility. When the decision was rendered, I immediately mailed an appeal to you. Attached you will find a copy of my appeal.

According to NYS DOCCS Regulations, specifically Title 7 NYCRR Section 1904.4, the decision to an appeal under these circumstances are to be rendered within 60 days of receipt.

At your earliest convenience, I would appreciate if you can provide me with the status of this matter. Thank you. I look forward to your response.

Sincerely,

Alex Ortiz

Exhibit D

To: Mr. Faucher, ORC

From: A. Ortiz, 15R0879

Date: August 14, 2017

Re: Status of Appeal (Work Release)

Dear Mr. Faucher,

On May 9, 2017 I filed an appeal in regards to being removed from the work release program. If possible, please look in my file and see if the appeal was received by Central Office and whether a decision has been rendered yet.

I appreciate your assistance with this matter and look forward to your response.

Sincerely,

Alex Ortiz

*The appeal was affirmed  
as of 6/22/17  
Lynley ORC*

RECORDED  
AUG 14 2017

8/16

08/21/2017

STATE OF NEW YORK DEPT OF CORRECTIONS AND COMMUNITY SUPERVISION  
NOTICE OF DISAPPROVAL FOR WORK RELEASE REMVL APPEAL

TO: SUPERINTENDENT

FROM: M. VICK, TEMP. RELEASE REVIEWER, TRP

RE: WORK RELEASE REMVL APPEAL  
NOTICE OF DISAPPROVAL  
ORTIZ, ALEX

15R0879

DATE: 07/03/2017 APPLICATION NO.: 201708243

APPLICATION DT: 06/21/2017

THIS IS TO ADVISE YOU THAT THE WORK RELEASE REMVL APPEAL  
FOR THE ABOVE INDIVIDUAL HAS NOT BEEN APPROVED BY THE CENTRAL OFFICE REVIEWER  
FOR THE FOLLOWING REASONS:

T.R. VIOL.


## REVIEWER'S COMMENTS:

THE FISHKILL CORRECTIONAL FACILITY TEMPORARY RELEASE COMMITTEE AND THE  
SUPERINTENDENT CONCURRED WITH YOUR REMOVAL FOR TIER 3 CONVICTION FOR  
TEMPORARY RELEASE VIOLATION AND ABSCONDENCE. SUCH BEHAVIOR INDICATES AN  
INABILITY TO CONFORM WITH THE TEMPORARY RELEASE CONTRACT. REMOVAL IS WARR-  
ANTED. IN RESPONSE TO YOUR APPEAL, IT IS NOTED THAT YOU ADMIT TO ABSCONDING  
AND THAT YOUR REQUEST FOR AN ORC WAS NOT AS A WITNESS TO ABSCOND INCIDENT.

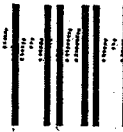
NOTE: A COPY OF THIS NOTIFICATION MUST BE FORWARDED TO THE TRC.  
CHAIRPERSON AND THE INMATE.

CC: INMATE  
FILE

Exhibit E

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.  <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.  <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. </p>	<p> A. Signature  <input type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee  B. Received by (Printed Name) _____ C. Date of Delivery _____ </p>
<p> 1. Article Addressed to:  NYS DOCCS  1220 Washington Ave., Bldg. 2  Albany, NY 12226    Attn: Anthony J. Annucci,  Acting Commissioner </p>	<p> D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No    <b>SEP 13 2017</b>  <b>Mailroom</b> </p>
<p> 2. Article Number  (Transfer from service label) </p>	<p> 3. Service Type  <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery  4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes </p>
<p>PS Form 3811, July 2013</p>	<p> 7014 0150 0001 0350 3053  Domestic Return Receipt </p>

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

Alex Ortiz (15R0879)  
Riverview Correctional Facility  
P.O. Box 247  
Ogdensburg, NY 13669

E 2/438

September 7, 2017.

Alex Ortiz (15R0879)  
Riverview Correctional Facility  
PO Box 247  
Ogdensburg, NY 13669

To: Anthony J. Annucci, Acting Commissioner  
NYS DOCCS--The Harriman State Campus  
1220 Washington Ave., Bldg. 2  
Albany, NY 12226

Re: Request For Review of TRP Removal Decision

Dear Mr. Annucci,

Please accept this letter as a direct request seeking your intervention in regards to a procedural violation that occurred at my Removal Proceeding/TRC Hearing which took place at Fishkill C.F. on May 2, 2017.

Attached you will find the answer to the appeal I submitted to Priscilla Ledbetter, Director of Temporary Release Programs.

At the hearing, I made a request to call a witness. The TRC stated that I could not have a witness and that I should instead have the witness "write them a letter". Six days later the decision to have me removed was rendered.

I appealed the decision on the ground that my right to call a witness was rejected and no efforts were made to contact my witness.

The answer to my appeal states that the request to call my witness was not accepted because he was not "a witness to the abscond incident".

I am submitting this letter to you in hopes that you could correct this error which is contrary to NYS DOCCS Regulations.

I appreciate your attention with this matter and look forward to your response.

Sincerely,

A. Ortiz  
Alex Ortiz



Exhibit F

June 17, 2018

Alex Ortiz (15R0879)  
Riverview Correctional Facility  
P.O. Box 247  
Ogdensburg, NY 13669

To: Anthony J. Annucci, Acting Commissioner; and  
Priscilla Ledbetter, Director of Temporary Release  
NYS DOCCS  
1220 Washington Avenue, Bldg. 2  
Albany, NY 12226

Re: Request For a New Hearing or Reinstatement

Dear Mr. Annuccci and Ms. Ledbetter,

Please accept this letter as a follow-up to a previous complaint I had sent via certified mail, received by "P.B." in the Mailroom on September 13, 2017, regarding the violation of my State and Federal constitutional rights, at a revocation hearing that took place at Fishkill Correctional Facility on May 2, 2017.

Attached you will find a copy of that letter and the certified mail receipt. Please be advised, as of this writing, the wrong I have--and continue to--suffer, remains without remedy.

While it is true, I violated the conditions of my Temporary Release contract, State and Federal law entitle me to a due process hearing, where a determination as<sup>to</sup> whether my status should be suspended, revoked, or I be reinstated, will be made. Regardless of the violation, participants of Temporary Release Programs are entitled to present mitigating circumstances and evidence relevant to the question whether reincarceration is appropriate.

I made an attempt to call witnesses and present mitigating information at my revocation hearing, to which the hearing officers replied, "witnesses are not allowed" and "all the witnesses in the world would not change anything". In addition, the hearing body was infected with bias, when they informed me "once you abscond it's a done deal we cannot take that chance again", prejudging the matter prior to it's completion, and without consideration of facts

I would have presented, had I been permitted to call witnesses and present evidence.

My status was revoked on May 9, 2017. I appealed the decision, grieved it, and brought the matters to Mr. Annucci's and Ms. Ledbetter's attention. To this very day, no solution has been provided, my constitutional rights remain violated, and I remain in prison, wrongfully and unlawfully deprived of my liberty interests without due process of law.

My release date draws near. I reaching out to both of you, as you have the authority to rectify these wrongs. I would appreciate if a new hearing can be provided were my procedural due process rights will be honored, and I will be in the presence of impartial hearing officers who are familiar with their own regulations, <sup>with</sup> and the seriousness that the U.S. Constitution places on state created liberty interests.

I appreciate your attention with this matter and look forward to your response.

Sincerely,

*a. Ortiz*  
Alex Ortiz

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK )

) SS.:

COUNTY OF SAINT LAWRENCE )

I, Alex Ortiz being duly sworn, deposes and says:

That on this 7<sup>th</sup> day of June, 2018, I submitted for mailing the following documents:

a) Request For Review/New Hearing/Remedy

b) \_\_\_\_\_

c) \_\_\_\_\_  
in a box maintained at the Riverview Correctional Facility located at 1110 Tibbits Drive, Ogdensburg, New York, 13669, to be mailed via United States Postal Service to the following concerned parties:

Anthony J. Annucci, Acting Commissioner

NYS DOCCS

1220 Washington Avenue, Bldg. 2

Albany, NY 12226

Priscilla Ledbetter, Director of TRP

NYS DOCCS

1220 Washington Avenue, Bldg. 2

Albany, NY 12226

Sworn to before me this

7<sup>th</sup> day of June, 2018

Stephen Alan Currier  
NOTARY PUBLIC

Respectfully Submitted,

A. Ortiz  
SIGNATURE OF AFFILIANT

Stephen Alan Currier  
Notary Public, State of New York  
Qualified in St. Lawrence County  
No. 01CU6300538  
Commission Expires 04/14/2022

EXHIBIT G

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Priscilla Ledbetter, Director of  
Temporary Release Programs  
NYS DOCS  
1220 Washington Avenue, Bldg. 2  
Albany, NY 12226



9590 9402 3222 7196 9358 94

## 2. Article Number (Transfer from service label)

7014 0150 0001 0350 2094

PS Form 3811, July 2015 PSN 7530-02-000-9053

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X

- ☐ Agent  
☐ Address

## B. Received by (Printed Name)

## C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

JUN 28 2018

Mailroom

## 3. Service Type

- ☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☒ Certified Mail®  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
☐ Insured Mail  
☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®  
☐ Registered Mail™  
☐ Registered Mail Restricted Delivery  
☐ Return Receipt for Merchandise  
☐ Signature Confirmation  
☒ Signature Confirmation Restricted Delivery

Domestic Return Receipt

USPS TRACKING #



9590 9402 3222 7196 9358 94



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

United States  
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box®  
Alex Ortiz (15R0879)  
Riverview Correctional Facility  
P.O. Box 247  
Ogdensburg, NY 13669

52/400



June 25, 2018

Alex Ortiz (15R0879)  
Riverview Correctional Facility  
PO Box 247  
Ogdensburg, NY 13669

To: Priscilla Ledbetter, Director of Temporary Release  
NYS DOCCS  
1220 Washington Avenue, Bldg. 2  
Albany, NY 12226

Re: Request For Review and Reconsideration  
Work Release Removal Appeal

Dear Ms. Ledbetter,

Please accept this letter as a direct request seeking your review of my Work Removal Appeal, which was denied on June 21, 2017. Attached you will find a copy of that decision.

Although I admitted to violating the Temporary Release Contract, I believe the hearing I was afforded was unfair because I was not permitted to argue against being removed from the program.

At your earliest convenience, I would appreciate if you can review this matter and give my application reconsideration. Thank you.

Sincerely,

*a. Ortiz*  
Alex Ortiz

cc: Commissioner's Office  
1220 Washington Avenue, Bldg. 2  
Albany, NY 12226